FILED
2008 APR 28 PM 12: 29

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. **Adan LOPEZ-Cruz,** Defendant	Magistrate Docket No. '08 MJ 1323 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **April 25, 2008** within the Southern District of California, defendant, **Adan LOPEZ-Cruz,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Ismael A. Canto
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **28th** DAY OF **APRIL, 2008**

Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Adan LOPEZ-Cruz

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On April 25, 2008, Border Patrol Agent R. Schiller and Border Patrol Agent L. Nye were patrolling in an area near Otay Mesa, California. This area is approximately eight miles east of the Otay Mesa, California Port of Entry and approximately three miles north of the United States/Mexico International boundary.

At approximately 7:30 p.m. Agents Schiller and Nye responded to a seismic sensor activation. Upon arriving at a trail off the Otay Truck Trail, Agents Schiller and Nye exited their vehicle and walked south on the trail. Knowing the trail is commonly used by illegal aliens attempting to further their illegal entry north into the United States, Agents Schiller and Nye hid behind some brush. Agent Schiller then observed a group of eleven individuals walking north on the trail. Agent Schiller and Agent Nye approached the individuals and identified themselves as United States Border Patrol Agents and performed field immigration interviews on all individuals. All the individuals, including one later identified as defendant **Adan LOPEZ-Cruz**, individually stated that they were citizens of Mexico and did not possess any immigration documents allowing them to enter into or remain in the United States legally. At approximately 8:30 p.m. Agent Schiller arrested the eleven individuals and transported them to the Brown Field Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **November 07, 2007** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.

Executed on April 27, 2008 at 9:00 a.m.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **April 25, 2008,** in violation of Title 8, United States Code, Section **1326**.

Nita L. Stormes
United States Magistrate Judge

4-27-08 @ 11:40AM
Date/Time